



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

February 2, 1998

Mr. Mark E. Dempsey  
Assistant City Attorney  
City of Garland  
P.O. Box 469002  
Garland, Texas 75046-9002

OR98-0323

Dear Mr. Dempsey:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 112063.

The City of Garland (the "city") received a request for "any and all information you have in your files concerning [a specified incident], including any statements and photographs." In response to the request, you submitted to this office for review a copy of the information, which you assert is responsive. You state that the city will make certain information available to the requestor. However, you contend that the submitted information is excepted from disclosure under section 552.103 of the Government Code. We have reviewed the information at issue.

We note that some of the information responsive to this pending request has been the subject of previous rulings by this office. In Open Records Letter Nos. 97-1963 (1997),<sup>1</sup> 97-2058 (1997),<sup>2</sup> and 97-2131 (1997),<sup>3</sup> this office addressed requests by other individuals for related information.

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<sup>1</sup>In Open Records Letter 97-1963 (1997), the requestor sought "[a] copy of the 911 tape reporting the drowning of Kenneth Turner."

<sup>2</sup>In Open Records Letter 97-2058 (1997), the requestor requested a copy of the incident report concerning the accidental drowning of a child.

<sup>3</sup>In Open Records Letter 97-2131 (1997), the city received a request for copies of CPR and life saving certification for all lifeguards at Bradfield Pool, Wynne Pool, Holford Pool and Surf & Swim as well as a copy of the Parks and Recreation guidelines for lifeguards (rules, regulations and procedures in the event of an emergency).

In this instance, you have indicated that the outcomes in our previous rulings on the related information have been challenged in lawsuits which are currently pending in Travis County. According to the city, Open Records Letter Nos. 97-1963 (1997) and 97-2131 (1997) are currently pending before the court and subject to a lawsuit styled, *City of Garland v. Dan Morales v. The Dallas Morning News*, No. 97-10375 (98th Dist. Ct., Travis County, Texas); and, our ruling in Open Records Letter No. 97-2058 (1997) is the subject of a lawsuit styled *City of Garland v. Dan Morales*, No. 97-10983 (353rd Dist. Ct., Travis County, Texas).

Although you have sought an open records decision from this office with regard to the pending open records request, it is the policy of this office not to address issues that are being considered in pending litigation. Accordingly, we are closing our file on this matter without a finding and will allow the trial court to resolve the issue of whether these records must be released to the requestor. If you have questions about this ruling, please contact our office.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have any questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Sam Haddad". The signature is fluid and cursive, with a large loop at the beginning.

Sam Haddad  
Assistant Attorney General  
Open Records Division

SH/rho

Ref: ID# 112063

Enclosures: Submitted tape and documents

cc: Mr. Warren Hays  
Attorney at Law  
702 Gatewood Drive  
Garland, Texas 75043  
(w/o enclosures)